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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 CYRUS Y. KIM,

10 Plaintiff,

11 v.

12 CITY OF FEDERAL WAY,

13 Defendant.

No. C08-0688JLR

ORDER

14 This matter comes before the Court under Local General Rule 8(c). Plaintiff has
15 filed a “Motion for Recusal” in the above-captioned matter. Dkt. # 9. The Honorable James L.
16 Robart, United States District Judge, declined to recuse himself voluntarily. Dkt. # 10.
17 Plaintiff’s motion is therefore ripe for review by this Court.

18 Section 455 of title 28 of the United States Code governs the disqualification of a
19 judge. It states in relevant part: “Any justice, judge, or magistrate judge of the United States
20 shall disqualify himself in any proceeding in which his impartiality might reasonably be
21 questioned.” Additionally, 28 U.S.C. § 144, pertaining to judicial bias or prejudice, provides:

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23 Whenever a party to any proceeding in a district court makes and files a timely and
24 sufficient affidavit that the judge before whom the matter is pending has a personal
25 bias or prejudice either against him or in favor of any adverse party, such judge
26 shall proceed no further therein, but another judge shall be assigned to hear such
proceeding. The affidavit shall state the facts and the reasons for the belief that

ORDER

1 bias or prejudice exists.

2 A judge must recuse himself if a reasonable person would believe that he is unable to be
3 impartial. Yagman v. Republic Insurance, 987 F.2d 622, 626 (9th Cir. 1993).

4 Having reviewed the record, the undersigned finds that there is no evidence of bias
5 or prejudice against plaintiff or in favor of defendant in this case. In May 2008, plaintiff filed a
6 complaint alleging, among other things, that his constitutional rights were violated when he was
7 barred from a City park. Plaintiff asserts that the length of time this matter has been pending
8 without movement toward a trial date raises concerns regarding a potential conflict of interest or
9 prejudice.
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11 The delay in establishing a case management schedule in this case is not
12 extraordinary: it would be impossible to conclude on such a sparse record that a temporary
13 silence on the court's part is the result of bias or prejudice against plaintiff. Plaintiff has not
14 attempted to identify any extra-judicial source of prejudice against him, instead simply
15 speculating that the delay may indicate bias. Because there is no evidence of bias or prejudice,
16 Judge Robart's impartiality cannot reasonably be questioned. Plaintiff's motion for recusal is
17 DENIED.
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20 Dated this 10th day of September, 2008.

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23 Robert S. Lasnik
24 Chief Judge, United States District Court
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